



AMENDMENT NO. 7
to
MASTER PURCHASE AGREEMENT
No. 2005MPA1199
between
ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.
and
STATE OF KANSAS

WHEREAS, Environmental Systems Research Institute, Inc. ("Esri"), and State of Kansas ("Licensee") entered into a Master Purchase Agreement ("MPA"); and

WHEREAS, the parties desire to extend the term of the MPA and update terms at no additional cost;

NOW THEREFORE, the parties agree to the following:

- 1) The term of this MPA is hereby extended for one (1) additional year, through October 31, 2013.
- 2) Custom Software, Technical Data, and Assistance License Addendum, Attachment B Time and Materials Rate Schedule, J-8410. The 2013 Time and Materials Rate Schedule J-8410 is attached and becomes effective on January 1, 2013. The existing 2012 Time and Materials Rate Schedule J-8410 remains applicable through December 31, 2012.
- 3) Exhibit 1 – Scope of Use, E300. The existing Exhibit 1 – Scope of Use, E300 3/29/2011 is deleted in its entirety and replaced with an updated with Exhibit 1- Scope of Use, E300 08/10/2012.
- 4) Pursuant to Article 3 -- Product Offerings of Attachment E500 "State and Local MPA Terms and Conditions," Enterprise Advantage Program (EAP), E125 08/21/2012 is hereby added to the MPA.
- 5) Pursuant to Article 3 -- Product Offerings of Attachment E500 "State and Local MPA Terms and Conditions," Premium Support Services Agreement, E601 06/27/2011 is hereby added to the MPA.
- 6) Pursuant to Article 3 -- Product Offerings of Attachment E500 "State and Local MPA Terms and Conditions," Implementation Services Addendum for Services Packages, G363D 02/03/12 is hereby added to the MPA.

All other terms and conditions of the MPA remain in full force and effect.
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The parties hereto have executed this Amendment 7 to be effective, valid, and binding upon the parties as of the date last signed below as executed by their duly authorized representatives.

Accepted and Agreed:

STATE OF KANSAS
(Licensee)

Signature: _____

Printed Name: Chris Howe

Title: Director of Purchases

Date: 9/20/2012

ENVIRONMENTAL SYSTEMS RESEARCH
INSTITUTE, INC.
(Esri)

Signature: _____

Printed Name: Chris Johnson

Title: Manager, Domestic Contracts

Date: 9/19/12

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TIME AND MATERIALS RATE SCHEDULE

Effective January 1, 2013

Hourly time and materials labor rates have been provided for each labor category for calendar year 2013. The hourly labor rates for services that are performed after 2013 may be escalated in an amount not to exceed five percent (5%) each year. Other direct costs, such as travel, reproduction, subcontractor, telecommunication/freight, or materials, will be charged a material handling fee and invoiced.

Esri reserves the right to provide fixed price quotations for professional services requests that require deliverables other than hours. Work performed under fixed price orders will require additional terms and conditions and will be invoiced monthly based on percentage completed.

GIS Technical Specialist/Engineer (S1)

Hourly Rate: \$190

Staff members in this labor category work collaboratively with software designers to perform software coding and the writing of software documentation according to design specifications developed by senior technical staff described below. As a group, these staff members are experienced in the coding of software and the creation of digital databases, as well as in software development associated with Esri's commercial off-the-shelf (COTS) software products; web, desktop, or server software development languages; geospatial data formats; and other technologies. These individuals also develop effective database designs, implement data conversion processes and procedures, and perform software and database quality control.

GIS System/Software Developer (S2)

Hourly Rate: \$245

Staff members in this labor category support the design of technical project specifications for the implementation of application software projects and database development projects. They support the day-to-day technical activities of the project team and ensure that standard system methodologies are employed. They also perform detailed software design and detailed database conversion design and are directly involved in the coding and implementation of complex and strategic portions of application software and database conversion projects. As a group, these staff members are proficient in Esri COTS software products; web, desktop, and server software development languages; geospatial data formats; and other technologies. These staff members design and develop QA/QC programs and support design and code reviews, database reviews, and other QA/QC activities throughout the project life cycle.

Senior GIS System/Software Architect (S3)

Hourly Rate: \$301

Staff members in this labor category provide the overall technical vision and system architecture for large, complex systems. They support the application of sound software engineering principles and life cycle methodologies to programs/projects. These individuals are actively involved in systems architecture design, application software design, database process design, and the directing of coding development including the supervision of design and code reviews. These staff members may serve as principal investigators in focused studies or research and development projects. Individuals in this labor category have broad technical knowledge of geographic information system (GIS) applications and related information technologies and may also provide specific expertise in areas such as web-based software applications, service-oriented architectures, data warehousing, spatial analysis, and modeling. As a group, these staff members are proficient with Esri COTS software products; software and database design methodologies; web, desktop, and server software development languages; geospatial data formats; and other technologies.

GIS Consultant/Project Manager (M1)

Hourly Rate: \$231

Staff members in this labor category provide day-to-day consulting and management for contracted projects within Esri. These individuals work under the guidance of senior Esri managers described herein and support the design and

implementation of project work plans. These staff members may provide consulting services and design and management support to software application development projects and database conversion projects. They may also conduct detailed requirements interviews, document application requirements, develop logical and physical database designs using standard engineering diagramming methodologies, design software and database QA/QC programs, and provide management oversight of daily technical activities. These staff members work with senior consulting and technical staff to design comprehensive work plans that employ standard system methodologies that define project deliverables and milestones and realistic schedules. These individuals work with Esri administrative staff to ensure that progress and financial reporting is provided according to contract requirements.

Senior GIS Consultant/Project Manager (M2)

Hourly Rate: \$291

Staff members in this labor category work as project managers or project advisers, providing strategic consulting and project management activities for GIS and information technology (IT) projects. These staff members have market/application domain expertise using extensive experience in GIS and related geospatial technologies to support the successful completion of a project. Consulting activities may include strategic planning, GIS workshops and seminars development, requirements definition, application and database design, and system integration. Management activities may include defining project requirements and objectives, establishing budgets and schedules, allocating staff and other resources, and managing and overseeing subcontractor activities. These individuals may also design comprehensive work plans that employ standard system methodologies that define project deliverables and milestones and realistic schedules.

Principal GIS Consultant/Program Manager (M3)

Hourly Rate: \$384

Staff members in this labor category work as program directors or project advisers, providing project vision, strategic consulting, and program management activities for GIS and IT projects. These staff members apply market/application domain expertise using extensive experience in GIS and related geospatial technologies to support the successful completion of the program. Consulting activities may include strategic planning, review and oversight of requirements definitions, application and database design, and system integration. Management activities may include defining program requirements and objectives, establishing budgets and schedules, allocating staff and other resources, and managing and overseeing subcontractor activities. Staff members in this labor category work with senior client staff in coordination with Esri senior management to resolve issues and support successful project completion.

GIS Database Specialist/Analyst (DB)

Hourly Rate: \$160

Staff members in this labor category provide database development support in creating cartographic and digital data products. These staff members have expertise that includes the performance of hard copy to digital data conversion tasks, data migration, and translation activities utilizing advanced processing techniques in ArcGIS. These individuals design, develop, and implement efficient production tools and workflows in accordance with approved project plans and design parameters.



**EXHIBIT 1
SCOPE OF USE
(E300 08/10/2012)**

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

**ADDENDUM 1
SOFTWARE TERMS OF USE
(E300-1)**

This Software Terms of Use Addendum ("Addendum 1") sets forth the terms of Licensee's use of Software and includes the Licensee's existing master license agreement, if any, or the License Agreement found at <http://www.esri.com/legal/licensing/software-license.html> (as applicable, the "License Agreement"), which is incorporated by reference. This Addendum 1 takes precedence over conflicting terms of the License Agreement.

SECTION 1—DEFINITIONS

Software may be offered under the following license types as set forth in the applicable sales quotation, purchase order, or other document identifying the Products that Licensee orders:

1. "Concurrent Use License" means a license to install and use the Software, Data, and Documentation on computer(s) on a network, but the number of simultaneous users may not exceed the number of licenses acquired, including the right to run passive failover instances of Concurrent Use License software in a separate operating system environment for temporary failover support.
2. "Deployment Server License" means a license that, in addition to providing Staging Server License rights, authorizes Licensee to install and use the Software or Data to provide services to multiple users on the same or other computer(s).
3. "Development Server License" means a license that authorizes Licensee to install and use the Software on a single computer to design and build applications that interface with or utilize server Software as described in the Documentation.
4. "Single Use License" means a license that allows Licensee to permit a single authorized end user to install and use the Software, Data, and Documentation on a single computer for use by that end user on the computer on which the Software is installed. Licensee may permit the single authorized end user to install a second copy for end user's exclusive use on a second computer as long as only one (1) copy of Product is in use at any time. No other end user may use Product under the same license at the same time for any other purpose.
5. "Staging Server License" means a license that, in addition to providing Development Server License rights, enables Licensee to use and install the Software for the following purposes: user acceptance testing, performance testing, load testing of other third-party software, staging new commercial data updates, and training activities.
6. "Term License" means a license or access provided for use of a Product for a limited time period ("Term") or on a subscription or transaction basis.

SECTION 2—TERMS OF USE FOR SPECIFIC SOFTWARE

Unless otherwise noted in the applicable Ordering Document, extensions to Software follow the same scope of use as that granted for the corresponding Software. Specific Software is subject to the terms of use set forth in the notes referenced below:

<p>Desktop</p> <ul style="list-style-type: none"> ▪ Address Coder (22; Addendum 2, Note 7) ▪ ArcExplorer—Java and Windows Editions (20; Addendum 2, Note 1) ▪ ArcGIS for Desktop (Advanced, Standard, or Basic) (26; Addendum 2, Note 1; Addendum 2, Note 6) ▪ ArcGIS Explorer Desktop (20; Addendum 2, Note 1) ▪ ArcGIS for AutoCAD (20) ▪ ArcLogistics <ul style="list-style-type: none"> – Desktop (Addendum 2, Note 1; Addendum 2, Note 2) – Using ArcGIS Online (20; 46; Addendum 2, Note 1) – Using ArcGIS for Server (20; 46; Addendum 2, Note 1) – Navigator (46; Addendum 2, Note 1; Addendum 2, Note 2) ▪ ArcPad (12; 13; Addendum 2, Note 1; Addendum 2, Note 2) ▪ ArcReader (20; Addendum 2, Note 1) ▪ ArcView 3.x and Extensions (17) ▪ Esri Business Analyst (Addendum 2, Note 1; Addendum 2, Note 4) ▪ Esri Maps for Office (Addendum 2, Note 1) ▪ Sourcebook America (20; Addendum 2, Note 8) <p>Server</p> <ul style="list-style-type: none"> ▪ ArcGIS for Server <ul style="list-style-type: none"> – Workgroup (8; 9; 28; 29; 30; 32; 38; 39; Addendum 2, Note 1; Addendum 2, Note 6) – Enterprise (8; 9; 27; 31; 38; 39; Addendum 2, Note 1; Addendum 2, Note 6) – Cloud Bundle (10; Addendum 3-Common Terms) ▪ ArcGIS for Server Extensions <ul style="list-style-type: none"> – ArcGIS for INSPIRE (8; Addendum 2, Note 1) 	<ul style="list-style-type: none"> ▪ Esri Business Analyst Server <ul style="list-style-type: none"> – Workgroup (8; 9; 28; 29; 30; 31; 39; Addendum 2, Note 1; Addendum 2, Note 4) – Enterprise (8; 9; 27; 31; 39; Addendum 2, Note 1; Addendum 2, Note 4) ▪ Portal for ArcGIS (31; 61; 62; Addendum 2, Note 1) ▪ Esri Tracking Server (31) ▪ Esri Maps for IBM Cognos (53) ▪ Esri Maps for SharePoint (Addendum 2, Note 1) <p>Developer Tools</p> <ul style="list-style-type: none"> ▪ ArcGIS Runtime SDK for iOS, Windows Phone, Windows Mobile, or Android (16; Addendum 2, Note 1) ▪ ArcGIS Engine Developer Kit and Extensions (16, 22, 26) ▪ ArcGIS Engine for Windows/Linux and Extensions (15; 22; 26; Addendum 2, Note 1; Addendum 2, Note 6) ▪ ArcGIS for iOS (Addendum 2, Note 1) ▪ ArcGIS for Windows Mobile Deployments (15; 54; Addendum 2, Note 1) ▪ ArcGIS Runtime (18; 59; Addendum 2, Note 1) ▪ ArcGIS Runtime SDK (16; 60; Addendum 2, Note 1) ▪ ArcGIS Web Mapping (including ArcGIS API for JavaScript/HTML5, ArcGIS API for Flex, ArcGIS API for Microsoft Silverlight, ArcGIS API for WPF) (15; 16; 64; 66; Addendum 2, Note 1) ▪ Esri Business Analyst Server Developer (Addendum 2, Note 1; Addendum 2, Note 4) ▪ Esri Developer Network (EDN) Software, Online Services, and Data (24; 26; Addendum 2, Note 1; Addendum 2, Note 6) ▪ Esri File Geodatabase API (47)
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Notes

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 38. The ArcGIS 3D Analyst for Server extension included with ArcGIS for Server Standard (Workgroup or Enterprise) may be used only for generating globe data cache(s) or publishing a globe document as an ArcGIS Globe Service. No other use of the ArcGIS 3D Analyst for Server extension Software is permitted with ArcGIS for Server Standard.
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 47. Licensee may develop and distribute software or web applications that use Esri File Geodatabase API to Licensee's end users.
 - 48–52. Reserved.
 53. This authorizes installation and use of a sufficient quantity of instances of ArcGIS for Server Enterprise Standard solely for the purposes of integrated intercommunication between Esri ArcGIS for Server map services and IBM Cognos data packages. No other use of Esri ArcGIS for Server Enterprise Standard is permitted.
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 59. Licensee may develop an unlimited number of applications on a single computer and deliver the applications to end users up to the number of Deployment Licenses that have been purchased.
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 - b. An end user must purchase a software application that includes an ArcGIS Runtime license to obtain the right to run an ArcGIS Runtime application on one (1) computer; and
 - c. Customers building applications for their own internal use must purchase ArcGIS Runtime licenses for every application Deployed that includes ArcGIS Runtime. A single user may have multiple ArcGIS Runtime licensed applications installed on one (1) computer, but each application is an independent Deployment of ArcGIS Runtime.
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ADDENDUM 2
DATA TERMS OF USE
(E300-2)

This Data Terms of Use Addendum ("Addendum 2") sets forth the terms of Licensee's use of Data and includes Licensee's existing master license agreement, if any, or the License Agreement found at <http://www.esri.com/legal/licensing/software-license.html> (as applicable, the "License Agreement"), which is incorporated by reference. This Addendum 2 takes precedence over conflicting terms of the License Agreement. Esri reserves the right to modify the Data terms of use referenced below at any time. Licensee may cancel a subscription upon written notice to Esri or discontinue use of the Data, as applicable. If Licensee continues to use the Data, Licensee will be deemed to have accepted the modification. Data terms of use are set forth in the notes referenced below:

<ul style="list-style-type: none">▪ ArcGIS Online Data (1)▪ StreetMap Premium for ArcGIS (2)▪ StreetMap Premium for Windows Mobile (2)▪ StreetMap Premium for ArcPad (2)▪ ArcLogistics Data (2)▪ Data Appliance for ArcGIS (3)▪ Business Analyst/Location Analytics Data (4,10)	<ul style="list-style-type: none">▪ Demographic, Consumer and Business Data ("Esri Data") (5,10)▪ Data and Maps for ArcGIS (6)▪ Address Coder Data (7, 10)▪ Sourcebook•America Data (8, 10)▪ MapStudio Data (9)
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Notes

1. *ArcGIS Online Data:* Software and Online Services that reference this note enable access to ArcGIS Online Data. ArcGIS Online Data is provided for use solely in conjunction with Licensee's authorized use of Esri Software and Online Services. Licensee may use Data accessed through ArcGIS Online as permitted under the terms of the URLs referenced below:
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 - b. Tele Atlas/TomTom data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9792-teleatlas_use_data.pdf.
 - c. i-cubed data is subject to the terms of use at <http://www.esri.com/legal/pdfs/j9946-icubed.pdf>.
 - d. Microsoft Bing Maps data is subject to the terms of use at <http://www.esri.com/legal/pdfs/e-802-bing-mapsvcs.pdf>.
 - e. BODC bathymetry data is subject to the terms of use found at https://www.bodc.ac.uk/data/online_delivery/gebco/terms_of_use/.
2. *StreetMap Premium for ArcGIS: StreetMap Premium for ArcGIS for Windows Mobile; StreetMap Premium for ArcPad; ArcLogistics Data:* StreetMap Premium Data may be used for mapping, geocoding, and single vehicle routing purposes but is not licensed for dynamic routing. For instance, StreetMap Premium Data may not be used to alert a user about upcoming maneuvers (such as warning of an upcoming turn) or to calculate an alternate route if a turn is missed. StreetMap Premium Data may not be used to perform synchronized routing of multiple vehicles. Data acquired for use with ArcGIS for Desktop, ArcGIS for Server, ArcPad, or ArcLogistics Software may only be used with the Product for which the Data was acquired, and may not be used with any other Product. StreetMap for Windows Mobile Data is licensed for use solely on mobile devices or in conjunction with ArcGIS for Mobile applications. Data may include data from either of the following sources:
 - a. NAVTEQ data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9791-navteq_use_data.pdf.
 - b. Tele Atlas/TomTom data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9792-teleatlas_use_data.pdf.
3. *Data Appliance for ArcGIS:* Data provided with Data Appliance is subject to the following additional terms of use:
 - a. Licensee may only use Data for North America with the North America collection of the Data Appliance for ArcGIS. This restriction applies to a large-scale (i.e., scale levels below 1:100,000) street map, transportation layer, boundaries and places layer, and one (1)-meter or better resolution imagery included in the USA

Collection. This restriction does not apply to the small-scale (i.e., scale levels above 1:100,000) maps provided in the World Collection, which are intended for display at global and regional scales.

- b. NAVTEQ data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9791-navteq_use_data.pdf.
 - c. Tele Atlas/TomTom data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9792-teleatlas_use_data.pdf.
 - d. i-cubed data is subject to the terms of use at <http://www.esri.com/legal/pdfs/j9946-icubed.pdf>.
 - e. BODC bathymetry data is subject to the terms of use found at https://www.bodc.ac.uk/data/online_delivery/gebco/terms_of_use/.
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- a. The Data is provided for Licensee's internal business use solely in connection with Licensee's authorized use of Software. Business Analyst Data is restricted for use only in conjunction with the respective Business Analyst extension. Location Analytics Data is restricted for use only in conjunction with Business Analyst Online API, Community Analyst API, and Location Analytics API. If Licensee orders a license for Esri Business Analyst or Business Analyst (Canadian Edition), or for Business Analyst Online API, Community Analyst API, and Location Analytics API, with a subset of the national dataset (i.e., Region, State, Local), Licensee may use only the licensed subset, not any other portion of the national dataset.
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 - e. NAVTEQ data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9791-navteq_use_data.pdf.
 - f. Tele Atlas/TomTom data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9792-teleatlas_use_data.pdf.
5. *Demographic, Consumer and Business Data ("Esri Data"):* This Data category includes demographic, consumer, business, and Tapestry Segmentation datasets. Subject to the terms of the License Agreement and this Addendum 2, Licensee may use the Data for any business purpose.
6. *Data and Maps for ArcGIS:* The Data is available to licensed users of ArcGIS for Desktop, ArcGIS for Server, and ArcGIS Online. Data and Maps for ArcGIS is provided for use solely in conjunction with authorized use of ArcGIS for Desktop, ArcGIS for Server, and ArcGIS Online.
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 - b. StreetMap Data may be used for mapping, geocoding, and routing purposes but is not licensed for dynamic routing purposes. For instance, StreetMap USA may not be used to alert a user about upcoming maneuvers (such as warning of an upcoming turn) or to calculate an alternate route if a turn is missed.

7. *Address Coder Data*: This Data is included with Address Coder and is provided for Licensee's internal business use solely in connection with Licensee's authorized use of Address Coder.
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 - b. Tele Atlas/TomTom data is subject to the terms of use at http://www.esri.com/legal/pdfs/j9792-teleatlas_use_data.pdf.
 - c. i-cubed data is subject to the terms of use at <http://www.esri.com/legal/pdfs/j9946-icubed.pdf>.
 - d. Infogroup Data is subject to the following terms of use: "Users" means end users of Esri Software. Any use of the Infogroup database not expressly authorized in this License Agreement is strictly prohibited. Without limiting the generality of the foregoing, Users are expressly prohibited from (i) cobranding or otherwise providing the product or service on behalf of any third party; (ii) sublicensing or reselling the Infogroup database; (iii) using or allowing third parties to use the Infogroup database for the purpose of compiling, enhancing, verifying, supplementing, adding to, or deleting from any mailing list, geographic or trade directories, business directories, classified directories, classified advertising, or other compilation of information that is sold, rented, published, furnished, or in any manner provided to a third party; (iv) using the Infogroup database in any service or product not specifically authorized in this License Agreement or offering it through any third party; (v) disassembling, decompiling, reverse engineering, modifying, or otherwise altering the Infogroup database or any part thereof without Infogroup's prior written consent, such consent to be granted or withheld at Infogroup's sole discretion; or (vi) using the Infogroup database for any direct marketing purposes.
10. Licensee may include Data in hard-copy or read-only format ("Outputs") in presentation packages, marketing studies or other reports or documents prepared for third parties. Licensee shall not resell or otherwise externally distribute Outputs in standalone form.

**ADDENDUM 3
ONLINE SERVICES ADDENDUM
(E300-3)**

This Online Services Addendum ("Addendum 3") sets forth the terms of Licensee's use of Online Services and includes the Licensee's existing master license agreement, if any, or the License Agreement found at <http://www.esri.com/legal/licensing/software-license.html> (as applicable, the "License Agreement"), which is incorporated by reference. This Addendum 3 takes precedence over conflicting terms of the License Agreement. Esri reserves the right to update the terms from time to time. Section 1 of this Addendum 3 contains terms applicable to all Online Services; Section 2 contains common terms applicable to specific Online Services.

SECTION 1—COMMON TERMS OF USE OF ONLINE SERVICES

ARTICLE 1—DEFINITIONS

In addition to the definitions provided in the License Agreement, the following definitions apply to this Addendum 3:

- a. "API" means application programming interface.
- b. "ArcGIS Website" means <http://www.arcgis.com> and any related or successor websites.
- c. "Content" means Data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, software applications, and Developer Tools.
- d. "Developer Tools" means software development kits (SDKs), APIs, software libraries, code samples, and other resources.
- e. "Named Users" means Licensee's employees; agents; consultants; contractors; or, for education accounts, registered students whom Licensee authorizes to access Online Services for Licensee's exclusive benefit through Licensee's ArcGIS Online account, to which they are explicitly linked through unique, individual user names and passwords.
- f. "Online Content" means Content hosted or provided by Esri as part of Online Services, including any Map Services, Task Services, Image Services, and Developer Tools and excluding Content provided by third parties that Licensee accesses through Online Services.
- g. "Service Components" means each of the following: Online Services, Online Content, ArcGIS Website, Developer Tools, Documentation, or related materials.
- h. "Licensee's Content" means any Content that Licensee or Licensee's Named Users submit to Esri in connection with Licensee's use of the Online Services, any results derived from the use of Licensee's Content with Online Services, and any applications Licensee builds with Developer Tools and deploy with Online Services. Licensee's Content excludes any feedback, suggestions, or requests for Product improvements that Licensee provides to Esri.
- i. "Value-Added Application" means an application using the Developer Tools and Online Services and that includes functions or features not inherent in the Online Services.
- j. "Web Services" as used under Licensee's existing signed license agreement, if any, means Online Services and any Content delivered by such Online Services.

ARTICLE 2—USE OF ONLINE SERVICES

2.1 License to Online Services. Esri grants Licensee a personal, nonexclusive, nontransferable, worldwide license to access and use Online Services as set forth in the applicable Ordering Documents (i) for which the applicable license fees have been paid, (ii) for Licensee's own internal use by Licensee and Licensee's Named Users, and (iii) in accordance with this License Agreement and the licensed configuration on file as authorized by Esri.

2.2 Provision of Subscription Online Services. For subscription Online Services, Esri will

- a. Provide Online Services to Licensee in accordance with the Documentation;
- b. Provide customer support in accordance with Esri's standard customer support policies and any additional support Licensee may purchase; and
- c. Use commercially reasonable efforts to ensure that Online Services will not transmit to Licensee any Malicious Code, provided Esri is not responsible for Malicious Code that was introduced to Online Services through Licensee's account or through third-party Content.

2.3 Licensee's Responsibilities. Licensee or Licensee's Named Users are the only persons authorized to access Online Services through Licensee's accounts. Authorization Codes may not be shared among multiple individuals but may be reassigned for absences of one (1) month or longer. Licensee and Licensee's Named Users are responsible for maintaining the confidentiality of Authorization Codes and for ensuring that unauthorized third parties do not access Licensee's account. Licensee will immediately notify Esri if Licensee becomes aware of any unauthorized use of Licensee's account or any other breach of security.

2.4 Prohibited Uses of the Online Services. In addition to the prohibited uses under the License Agreement, Licensee shall not (i) attempt to gain unauthorized access to the Online Services or assist others to do so; (ii) use Online Services for spamming, to transmit junk e-mail or offensive or defamatory material, or for stalking or making threats of physical harm; (iii) use Online Services to store or transmit software viruses, worms, time bombs, Trojan horses, or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment ("Malicious Code"); (iv) mirror, reformat, or display Online Services in an attempt to mirror and/or make commercial use of Online Services except to the degree that Online Services directly enable such functionality; (v) share the client-side data cache derived from Online Services with other licensed end users or third parties; (vi) distribute the client-side data cache, routes, or geocodes derived from Online Services to third parties; (vii) manually or systematically harvest information and data contained within Online Services; (viii) use ArcGIS Online Map Services, Geocoding Services, or Routing Services in connection with any products, systems, or applications installed or otherwise connected to or in communication with vehicles capable of vehicle navigation, positioning, dispatch, real-time route guidance, fleet management, or similar applications; or (ix) incorporate any portion of Online Services into a commercial product or service unless it adds material functionality to the Online Services.

2.5 Evaluations. Esri may provide licenses to use certain Services for Licensee's internal evaluation purposes. Such licenses continue until the stated evaluation period expires or until Licensee purchases a subscription, whichever occurs first. IF LICENSEE DOES NOT CONVERT LICENSEE'S EVALUATION LICENSE TO A SUBSCRIPTION PRIOR TO EXPIRATION OF THE EVALUATION TERM, ANY CONTENT AND CUSTOMIZATIONS THAT LICENSEE UPLOADED OR MADE DURING THE EVALUATION TERM WILL BE PERMANENTLY LOST. IF LICENSEE DOES NOT WISH TO PURCHASE A SUBSCRIPTION, LICENSEE MUST EXPORT SUCH CONTENT BEFORE THE END OF LICENSEE'S EVALUATION PERIOD.

2.6 Modifications of Online Services. Esri reserves the right to alter, modify, deprecate, or discontinue Online Services and related APIs at any time. If reasonable under the circumstances, Esri will provide prior notice of any material alterations. Esri will attempt to support any deprecated APIs for up to six (6) months, unless there are legal, financial, or technological reasons not to support them.

2.7 Attributions. Licensee is not permitted to remove any Esri or its licensors' logos or other attribution associated with any use of ArcGIS Online Services.

ARTICLE 3—TERM AND TERMINATION

The following supplements Article 5—Term and Termination of the License Agreement:

3.1 Term of Subscriptions. The term of any subscription will be provided in the Ordering Document under which it is purchased or in the Online Services description referenced therein.

3.2 Service Interruption. Licensee's access (including access on behalf of Licensee's customers) to and use of Online Services may be suspended, without prior notice, for any unanticipated or unscheduled downtime or unavailability of all or any portion of Online Services, including system failure or other events beyond the reasonable control of Esri or its affiliates.

3.3 Service Suspension. Esri and its affiliates shall be entitled, without any liability to Licensee, to suspend access to any portion or all of Online Services at any time on a service-wide basis (a) if Licensee breaches this License Agreement or exceeds Licensee's usage limits and fails to purchase additional Service Credits sufficient to support Licensee's continued use of Online Services as described in Article 5 of this Addendum; or (b) there is reason to believe that Licensee's use of Online Services will adversely affect the integrity, functionality, or usability of the Online Services or that Esri and its licensors may incur liability by not suspending Licensee's account (c) for scheduled downtime to conduct maintenance or make modifications to Online Services, (d) in the event of a threat or attack on Online Services (including a denial-of-service attack) or other event that may create a risk to the applicable part of Online Services, or (e) in the event that Esri or its

affiliates determine that Online Services (or portions thereof) are prohibited by law or otherwise that it is necessary or prudent to do so for legal or regulatory reasons. If warranted under these circumstances, Licensee will be notified of any Service Suspension beforehand and allowed reasonable opportunity to take remedial action.

3.4 Esri is not responsible for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Licensee or any Licensee customer may incur as a result of any Service Interruption or Service Suspension.

ARTICLE 4—LICENSEE'S CONTENT, FEEDBACK

4.1 Licensee's Content. Licensee is solely responsible for the development, operation, and maintenance of Licensee's Content and for all materials that appear on or in any of Licensee's Content. Licensee retains all right, title, and interest in Licensee's Content. Licensee hereby grants Esri and its licensors a nonexclusive, nontransferable, worldwide right to host, run, and reproduce Licensee's Content solely for the purpose of enabling Licensee's use of Online Services. Without Licensee's permission, Esri will not access, use, or disclose Licensee's Content except as reasonably necessary to support Licensee's use of Online Services, respond to Licensee's requests for customer support, or troubleshoot Licensee's account or for any other purpose authorized by Licensee in writing. If Licensee accesses Online Services with an application provided by a third party, Esri may disclose Licensee's Content to such third party as necessary to enable interoperation between the application and Online Services. Esri may disclose Licensee's Content if required to do so by law or pursuant to the order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure. It is Licensee's sole responsibility to ensure that Licensee's Content is suitable for use with Online Services and for maintaining regular offline backups using the Online Services export and download capabilities.

4.2 Removal of Licensee's Content. Licensee will provide information and/or other materials related to Licensee content as reasonably requested by Esri to verify Licensee's compliance with this License Agreement. Esri may remove or delete any portions of Licensee's Content if there is reason to believe that uploading it to, or using it with, Online Services violates this License Agreement. If reasonable under these circumstances, Esri will notify Licensee before Licensee's Content is removed. Esri will respond to any Digital Millennium Copyright Act take-down notices in accordance with Esri's Copyright Policy, available at http://www.esri.com/legal/licensing/dmca_policy.html.

4.3 Sharing Licensee's Content. Online Services and ArcGIS Website include publishing capabilities that allow Licensee to make Licensee's Content available to third parties ("Sharing Tools"). Licensee hereby grants to any third parties with whom Licensee elects to share Licensee's Content using such Sharing Tools the right and license to use, store, cache, copy, reproduce, (re)distribute, and (re)transmit Licensee's Content with Online Services subject to any terms of use and access restrictions that Licensee provides with Licensee's Content. **ESRI IS NOT RESPONSIBLE FOR ANY LOSS, DELETION, MODIFICATION, OR DISCLOSURE OF LICENSEE'S CONTENT RESULTING FROM LICENSEE'S NAMED USERS' MISUSE OF SUCH SHARING TOOLS OR ANY OTHER SERVICE COMPONENTS. LICENSEE'S USE OF SUCH SHARING TOOLS IS AT LICENSEE'S SOLE RISK.**

4.4 Retrieving Licensee's Content upon Termination. Upon termination of this License Agreement or any evaluation or subscription, Esri will make Licensee's Content available to Licensee for download for a period of thirty (30) days unless Licensee requests a shorter window of availability or Esri is legally prohibited from doing so. Thereafter, Licensee's right to access or use Licensee's Content with Online Services will end, and Esri will have no further obligations to store or return Licensee's Content.

ARTICLE 5—LIMITS ON USE OF ONLINE SERVICES; SERVICE CREDITS

Esri may establish limits on the resources available to Licensee with Online Services. These limits may be controlled through Service Credits. Service Credits are used to measure the consumption of ArcGIS Online services made available through Licensee's account. The maximum Service Credits provided with Licensee's ArcGIS Online account will be addressed in the applicable Ordering Document. Esri will notify Licensee's account administrator when Licensee's Service consumption reaches approximately seventy-five percent (75%) of the Service Credits allocated to Licensee through Licensee's subscription. The overage limits for a particular Service and options to address overages will be provided in the Service description and specified in the Ordering Document. Esri reserves the right to suspend Licensee's account until Licensee pays all outstanding overage fees in accordance with this License Agreement.

ARTICLE 6—ONLINE CONTENT; THIRD-PARTY CONTENT AND WEBSITES

6.1 Online Content. ArcGIS Online Data is included as a component of Online Services and is licensed under the terms of the License Agreement.

6.2 Third-Party Content and Websites. Online Services and ArcGIS Website may reference or link to third-party websites or enable Licensee to access, view, use, and download third-party Content. This Agreement does not address Licensee's use of third-party Content, and Licensee may be required to agree to different or additional terms in order to use third-party Content. Esri does not control these websites and is not responsible for their operation, content, or availability; Licensee's use of any third-party websites and third-party Content is AS-IS, without warranty and at Licensee's sole risk. The presence of any links or references in Online Services to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.

ARTICLE 7—LICENSEE'S WARRANTIES

Licensee warrants that Licensee's Content or use of Online Services with a product, process, or system not supplied by Esri or specified by Esri in its Documentation will not (i) infringe or misappropriate any third-party intellectual property rights or proprietary rights, (ii) violate any third-party's privacy rights or any applicable law; or (iii) contain or transmit to a third party any Malicious Code. Except as prohibited by applicable law, Licensee agrees to defend, indemnify, and hold harmless Esri from and against any claim, action, liability, or demand arising out of a breach of the foregoing warranties.

SECTION 2—TERMS OF USE FOR SPECIFIC ONLINE SERVICES

Specific Online Services are subject to the terms of use set forth in the notes referenced below:

<ul style="list-style-type: none">▪ ArcGIS Online (1; 2; 3; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 6</u>)▪ Business Analyst Online (4; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)▪ Business Analyst Online Mobile (4; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)▪ Esri Business Analyst Online API for Adobe Flex, Microsoft Silverlight, SOAP, and REST (6; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)▪ Community Analyst (4; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)	<ul style="list-style-type: none">▪ Esri Community Analyst API for Adobe Flex, Microsoft Silverlight, SOAP, and REST (6; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)▪ Esri Location Analytics API for Adobe Flex, Microsoft Silverlight, SOAP, and REST (6; <u>Addendum 2, Note 1</u>; <u>Addendum 2, Note 4</u>)▪ Redistricting Online (3; <u>Addendum 2, Note 1</u>)▪ MapStudio (5; <u>Addendum 2, Note 9</u>)
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Notes

1. In addition to the common terms of use of Online Services:
 - a. Licensee may use Licensee's ArcGIS Online account to build a Value-Added Application(s).
 - b. Licensee may provide access to Licensee's Value-Added Application(s) to third parties, subject to the following terms:
 - i. Licensee may allow anonymous user access to Licensee's Value-Added Application(s).
 - ii. Licensee shall not add third parties as Named Users to Licensee's ArcGIS Online account for the purpose of allowing third parties to access Licensee's Value-Added Application(s). This restriction does not apply to third parties included within the definition of Named Users.
 - iii. Licensee shall not provide a third party with access to ArcGIS Online Services enabled through Licensee's ArcGIS Online account other than through Licensee's Value-Added Application(s). This restriction does not apply to third parties included within the definition of Named Users.
 - iv. Licensee is responsible for any fees accrued through the use of Licensee's ArcGIS Online account by third parties accessing Licensee's Value-Added Application(s). This includes Service Credits required to support third-party Online Services usage and any additional subscription fees for Online Services as required.
 - v. Licensee is solely responsible for providing technical support for Licensee's Value-Added Application(s).
 - vi. Licensee will restrict third-party use of Online Services as required by the terms of this Agreement.
 - c. For ArcGIS Online ELA and Organization Plan accounts: Licensee is also permitted to
 - i. Charge an additional fee to third parties to access Licensee's Value-Added Application(s), subject to the terms of this License Agreement; or
 - ii. Transfer Licensee's Value-Added Application(s) to a third party's ArcGIS Online account, subject to the following:
 - (1) Licensee may charge third parties a fee for Licensee's Value-Added Application(s).
 - (2) Licensee is not obligated to provide technical support for the third party's general use of its ArcGIS Online account not related to Licensee's Value-Added Application(s).
 - (3) Licensee is not responsible for any fees accrued through the third party's use of Licensee's Value-Added Application(s) that have been transferred to or implemented on the third party's ArcGIS Online account.
 - d. For Personal Plans, Education and Not-for-Profit use of ArcGIS Online accounts: Licensee is not permitted to charge an additional fee to third parties to access Licensee's Value-Added Application(s) or generate more than incidental advertising revenue as a consequence of the deployment or use of the Value-Added Application(s).

Charging a fee to access Licensee's Value-Added Application(s) or generating more than incidental advertising revenue requires an ArcGIS Online ELA or Organization Plan account.

2. Licensee is not permitted to be the licensee of an ArcGIS Online account for or on behalf of a third party.
3. Terms of Use for ArcGIS Online Services: The following ArcGIS Online Services are not subject to ArcGIS Online fee-based Service Credit consumption usage. There is no fee (unless otherwise noted) to use these services up to the predefined maximum usage limits shown below. Use of these services beyond the predefined usage limits requires an additional fee. These services may be used only in conjunction with ArcGIS Software or an ArcGIS Online account.
 - a. *Map Services, Imagery Services, and Geometry Services:* Licensee may put these services to any use consistent with these terms of use subject to an aggregate limit of fifty million (50,000,000) transactions during any twelve (12)-month period. "Transaction" is defined in the Documentation at the ArcGIS Online Content resource center at <http://help.arcgis.com/en/arcgisonline/content/>.
 - b. *ArcGIS Online Standard Task Services (available at <http://tasks.arcgisonline.com>):* Licensee may put these services to any use consistent with these terms of use subject to the following.
 - *Standard Geocoding Services:* Licensee may use these services for search capabilities only, and results may not be stored for later use. Whenever results are stored for later use, a subscription is required.
 - *Standard Routing Services:* Licensee is subject to a limit of five thousand (5,000) routing requests (as defined in the Documentation) during any twelve (12)-month period.
 - c. *ArcGIS Online Subscription Task Services (available at <http://premiumtasks.arcgisonline.com>):* Upon Licensee's payment to Esri of the applicable fee(s), Licensee may put these services to any use consistent with these terms of use. Licensee may store results for later use.
 - d. *ArcGIS Online Sample Services:* Licensee may use these services for internal evaluation and development purposes only. All licenses for ArcGIS Online Services are subject to these terms of use and any additional restrictions or requirements identified in the Documentation.

The following ArcGIS Online Service is subject to fee-based ArcGIS Online Service Credit consumption usage.

- a. *ArcGIS Online World Geocoding Service (available at <http://geocode.arcgis.com>):* Licensee may use this service for search capabilities at no cost, but results may not be stored for later use. Upon Licensee's payment for an ArcGIS Online subscription or Service Credits, Licensee may batch geocode and store results for later use.
4. Licensee may not display or post any combination of more than one hundred (100) Esri Business Analyst Online or Community Analyst Reports and maps on Licensee's external websites.
 5. Licensee may create, publicly display, and distribute maps in hard copy and static electronic format for news-reporting purposes.
 6. Licensee may develop software or web applications that use Business Analyst Online API, Community Analyst API, or Location Analytics API to access, query, create, display, and redistribute Reports and resultant static, electronic maps to end user(s) of Licensee's software or web applications. If Licensee has an anonymous user subscription, Licensee may provide access to Licensee's Value-Added Application(s) to anonymous end users, limited to the number of Reports Licensee has paid for. End user(s) of Licensee's software or web applications may use Reports and maps for internal purposes only and not for further redistribution. "Report(s)" means any formatted output created by the Business Analyst Online API, Community Analyst API, or Location Analytics API Products, which includes PDF, CSV, Excel, HTML, and XML formats. Licensee shall not redistribute any Data in vector formats. Licensee and Licensee's end users are prohibited from using Reports or other output generated by Business Analyst Online API, Community Analyst API, or Location Analytics API as a substitute for Business Analyst Online API, Community Analyst API, or Location Analytics API, including, but not limited to, (i) combining and including such output in one or more files or databases and (ii) making such output available through a multiuser computer application. For clarity, end users may save Reports locally for their own internal use. For publicly facing applications developed with Business Analyst Online API (Canadian Edition), Reports and Data may be produced or exported in static formats only (e.g., JPEG, PDF); Licensee must ensure that Licensee's application does not allow Canadian Edition Reports to be exported as CSV, XML, HTML, or XLS files or in any other format that readily enables extraction or manipulation of the file's contents. Licensee is solely responsible for providing technical support for Licensee's Value-Added Application(s).

ADDENDUM 4
LIMITED USE PROGRAMS
(E300-4)

This Limited Use Programs Addendum ("Addendum 4") applies to any Licensee that has been qualified by Esri or its authorized distributor to participate in any of the programs described herein. This Addendum 4 includes the Licensee's existing master license agreement, if any, or the License Agreement found at <http://www.esri.com/legal/licensing/software-license.html> (as applicable, the "License Agreement"), which is incorporated by reference. This Addendum takes precedence over conflicting terms of the License Agreement. Esri reserves the right to update the terms from time to time.

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| <ul style="list-style-type: none">▪ Educational Programs (1)▪ Grant Programs (2) | <ul style="list-style-type: none">▪ Home Use Program (3)▪ Other Esri Limited Use Programs (4) |
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Notes

1. *Educational Programs.* Licensee agrees to use Products solely for educational purposes during the educational use Term. Licensee shall not use Products for any administrative use unless Licensee has acquired an administrative use Term License. Licensee shall not use Products for commercial or for-profit purposes.
2. *Grant Programs.* Licensee may only use Products for noncommercial purposes as specified in the Esri grant document. Licensee shall not use Products for commercial or for-profit purposes.
3. *ArcGIS for Home Use Program:*
 - a. All ArcGIS for Home Use Program Products are provided as Term Licenses and are identified on Esri's Home Use Program website found at <http://www.esri.com/arcgis-for-home/> or Licensee's authorized distributor's website.
 - b. Esri grants to Licensee personal, nonexclusive, nontransferable, Single Use License solely to use the Products provided under the ArcGIS for Home Use Program as set forth in the applicable Ordering Documents (i) for which the applicable license fees have been paid; (ii) for Licensee's own Noncommercial internal use; (iii) in accordance with this License Agreement and the configuration ordered by Licensee or as authorized by Esri or its authorized distributor; and (iv) for a period of twelve (12) months unless terminated earlier in accordance with the License Agreement. "Noncommercial" means use in a personal or individual capacity that (a) is not compensated in any fashion, (b) is not intended to produce any works for commercial use or compensation, (c) is not intended to provide a commercial service, and (d) is neither conducted nor funded by any person or entity engaged in the commercial use, application, or exploitation of works similar to the licensed Products.
 - c. **Installation Support.** Installation Support for a period of ninety (90) days is included with ArcGIS for Home Use. As discussed further on the Esri or authorized distributor's website, Esri provides technical support in response to specific inquiries. Installation Support will apply only to unmodified Software. Software is provided only for standard hardware platforms and operating systems supported by Esri as described in the Software documentation. Esri is not responsible for making or arranging for updates to interfaces for nonstandard devices or custom applications.

Esri Installation Support will be provided in compliance with the Esri ArcGIS for Home Use Installation Support on the Esri website at <http://www.esri.com/legal/pdfs/home-use-installation-support.pdf>. Esri supports users solely with the installation of Esri Software. Esri's Support website is at <http://support.esri.com/en/support>. Support provided by an authorized distributor will be in accordance with the distributor's technical support program terms and conditions.
4. *Other Esri Limited Use Programs.* If Licensee acquires Products under any limited use program not listed above, Licensee's use of the Products may be subject to the terms set forth in the applicable launching page or enrollment form or as described on Esri's website in addition to the nonconflicting terms of this Addendum 4. All such program terms are incorporated herein by reference.



ENTERPRISE ADVANTAGE PROGRAM (EAP)

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

EAP Agreement No. 2012EAP1199

This Enterprise Advantage Program Agreement ("EAP Agreement") is composed of this page and the related Terms and Conditions contained in Articles 1 through 12 below. This EAP Agreement adds additional terms and conditions to the Master Purchase Agreement (MPA) with respect to the EAP.

Esri offers an Enterprise Advantage Program to Licensees that are implementing or have implemented a geographic information system (GIS) enterprise solution based on Esri technology. Licensee agrees to contract with Esri for and Esri agrees to provide Licensee with certain enhanced consulting services, training, and support available under the Enterprise Advantage Program for the authorized Licensee location as described herein. The Enterprise Advantage Program is not designed for Esri to provide project-specific professional services (e.g., application or database development for solutions or applications).

All Licensee contact regarding EAP activities shall be through the point of contact identified below.

Authorized EAP Contact Information (to be completed by Licensee)

Contact: _____ Telephone: _____
Address: _____ Fax: _____
City, State, ZIP: _____ E-mail: _____

This EAP Agreement supersedes any previous agreements or understandings related to the Enterprise Advantage Program. All other terms and conditions of the MPA and any preceding addenda will remain in full force and effect.

ARTICLE 1—DEFINITIONS

Capitalized terms that have not been defined in this EAP Agreement shall have the meaning found in the applicable Esri license agreement.

"Incident" means a communication via telephone or e-mail by Licensee to Support Services regarding technical problems with Software, Data, or Documentation.

"Map Data" means any digital dataset(s), including geographic data, vector data coordinates, raster data, or associated tabular attributes supplied or used in the performance of this EAP Agreement.

"PSS" means Premium Support Services.

"Renewal Period" means any one (1) year extension of this EAP Agreement.

"Secure Formats" means object code, executable code, or similar formats.

"Term" means the initial term of this EAP Agreement.

"Work Product" means reports, documented analysis, sample code, prototype/unsupported code, or technical memorandums provided under this EAP Agreement.

ARTICLE 2—ENTERPRISE ADVANTAGE PROGRAM

2.1 Enterprise Advantage Program Description. The Enterprise Advantage Program is provided on an order-by-order, annual subscription basis. EAP is a menu of services, training, and support that provides Licensee with the flexibility to select components that best meet its needs. The Enterprise Advantage Program components include the following:

- a. *Technical Advisor.* An Esri Technical Advisor who has expertise in Esri GIS software capabilities and has the ability to analyze and assess optimal solutions in the context of GIS enterprise implementation will be assigned to Licensee. Licensee will receive up to the number of ordered Technical Advisor hours. Licensee may elect to retain additional Technical Advisor Services for a supplemental price. Technical Advisors are not substitutes for services provided by Esri Support Services or Professional Services. Licensee will continue to contact Esri Support Services as the first point of contact for all technical support inquiries. If a custom application or other services are required, Licensee will need to enter into an agreement for use of Esri Professional Services. If Licensee requests the Technical Advisor to come to Licensee's site, Licensee will pay reasonable travel costs. The Technical Advisor in coordination with the Account Manager shall
 - (1) Advise Licensee on GIS strategies, architectures, and product selection;
 - (2) Advise Licensee on training needs, available business partner solutions, consulting support requirements, and business case development;
 - (3) Act as Licensee's technical advocate in dealing with Esri;
 - (4) Participate in annual account reviews; and
 - (5) Serve as point of escalation if Licensee is not satisfied with the resolution of an incident through Esri Support Services.
- b. *Annual Account Review.* Licensee may attend a one (1)-day annual GIS strategy and account review with Licensee's Account Manager and Technical Advisor at Esri headquarters in Redlands, California. Key Esri technical and industry specialists may also attend the review to answer questions and discuss Licensee's ideas and suggestions regarding Esri software and support strategies. Licensee is responsible for its own travel expenses. As an option to hosting the review in Redlands, Esri may conduct the review at the appropriate Esri regional office as mutually agreed, and Esri's Redlands staff will have the option to participate either by telephone or by webcast.

c. *Learning and Services Credits*

- (1) Licensee will receive the number of ordered Learning and Services Credits. Licensee may use the credits toward any combination of consulting services support, training, premium support, or related travel expenses as described below.
- (2) Licensee may order, for an additional price, additional Learning and Services Credits either (i) as a block of fifty (50) credits or (ii) as a block of one hundred (100) credits, not to exceed a total of two hundred (200) credits during the Term or each Renewal Period of this EAP Agreement. If Licensee requests additional Learning and Services Credits over and above the initial two hundred (200) credits provided for in this paragraph, Licensee must order Learning and Services Credits along with additional Technical Advisor Services.
- (3) Learning and Services Credit may be exchanged as follows:

Technical Consulting Services Support consisting of review of technology strategy, systems design, prototyping, and other general technical consulting services support activities (Any project-related activities requiring a deliverable other than consulting time will be scoped, budgeted, and scheduled through a separate agreement.)

Annual Premium Support Unlimited

Instructor-Led Training (one [1] person at an Esri Facility) or Virtual Classroom

Client Site or Private Esri Site Training Event (for up to twelve [12] people)

Additional Student

Coaching Services (for up to fifteen [15] people)

Virtual Campus Annual User License

Related Esri travel and per diem expenses

1 credit = 2 hours

75 credits = Unlimited Incidents

1 credit = 1 day

9 credits = 1 day

0.75 credits = 1 day

9 credits = 1 day

1 credit = 480 Virtual Campus dollars

as quoted

- (4) Unused Learning and Services Credits may be carried over to future years as long as Licensee remains an Esri Enterprise Advantage Program member. If this EAP Agreement expires (exclusive of termination for default), any unused credits will expire six (6) months after the expiration of this EAP Agreement; however, the Technical Advisor Services will not be available during this post-Term period.
- (5) Esri will provide EAP Contact with a monthly report outlining usage of Enterprise Advantage Program Learning and Services Credits to date.

- d. *Exclusive Enterprise Webcast.* Esri will provide an e-mail invitation to the EAP Contact for a quarterly webcast presenting business and technical information related to enterprise GIS.

2.2 Learning and Services Credit Use

- a. *Current on Maintenance.* Licensee must remain current on Standard Maintenance during the term of this EAP Agreement. Standard maintenance is described at <http://www.esri.com/legal>, which may be changed from time to time.
- b. *Authorization of Credit Use.* Licensee will contact its Account Manager or Technical Advisor to consume Learning and Services Credits for a particular request. Esri will submit to Licensee a Learning and Services Credit estimate by e-mail for confirmation and authorization for use of the credits.
- c. *Travel and Per Diem.* Any Esri travel and per diem will be quoted separately. Licensee may direct Esri to use credits for travel and per diem as stated in Enterprise Advantage Program Description, Section 2.1 above, or Licensee will issue a purchase order and Esri will invoice Licensee for the travel and per diem expenses as described below in Article 6.
- d. *Notification of Consumed Credits.* Esri will notify Licensee in the event the authorized Learning and Services Credits are consumed prior to completion of the requested work. Licensee may elect to direct use of additional credits, if available; procure additional Learning and Services Credits; or notify Esri to stop work on such requested work. Esri reserves the right to discontinue work when the authorized credits are consumed.
- e. *Review of Proposed Activities.* Any activities proposed to be completed under the Enterprise Advantage Program will be subject to review and approval by Esri to ensure alignment with the intent of the program.

2.3 Defense or Military Application. At the time the Learning and Services Credits are requested or before any services are provided by the Technical Advisor, Licensee will inform Esri if any of the requested services, consulting, training, or support provided by Esri is directly related to a defense article or for a military application.

ARTICLE 3—LICENSE GRANT

3.1 Training. The terms of the Esri License Agreement shall be applicable to all Licensee course participants and for all of Esri's Software, Data, Online Services, and Documentation licensed for use in any training course to be conducted. Esri may issue temporary Software licenses when there is an insufficient number of Software licenses available at Licensee's training facility. Upon conclusion of the training event, Licensee shall uninstall the temporary Software licenses and return to Esri any media provided.

3.2 Work Product. Esri hereby grants to Licensee a nonexclusive, royalty-free license in the Work Product to use in connection with Licensee's authorized use of the Software and Data for support of which the Work Product was supplied.

3.3 PSS. The terms and conditions of the License Agreement for the affected Software will govern any updates, patches, hot fixes, or software provided under this EAP Agreement.

ARTICLE 4—WARRANTIES AND DISCLAIMERS

4.1 Warranties and Disclaimers

- a. All services, training, and Work Products will be provided in a professional and workerlike manner.
- b. Esri warrants for a period of thirty (30) days after delivery of the services that the services will conform to professional and technical standards of the software industry.
- c. *Map Data Disclaimer.* Map Data may contain some nonconformities, defects, errors, or omissions. MAP DATA IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. Without limiting the generality of the preceding sentence, Esri and its licensors do not warrant that the Map Data will meet Licensee's needs or expectations, that the use of the Map Data will be uninterrupted, or that all nonconformities can or will be corrected. Esri and its licensors are not inviting reliance on the Map Data, and Licensee should always verify actual Map Data.

4.2 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ESRI DOES NOT WARRANT AND DISCLAIMS THAT THE ENTERPRISE ADVANTAGE PROGRAM OR ANY WORK PRODUCT PROVIDED HEREUNDER WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR-FREE, FAULT-TOLERANT, OR FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. WORK PRODUCT IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE. ANY SUCH USE SHALL BE AT LICENSEE'S OWN RISK AND COST.

ARTICLE 5—LIMITATION OF LIABILITY

5.1 Disclaimer of Certain Types of Liability. ESRI IS NOT LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS, LOST SALES, OR BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL; OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS EAP AGREEMENT OR USE OF THE WORK PRODUCT, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, WHETHER OR NOT ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

5.2 General Limitation of Liability. ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER FOR DIRECT DAMAGES SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY LICENSEE FOR THE EAP PROGRAM.

5.3 Applicability of Disclaimers and Limitations. The parties agree that Esri has set its prices and entered into this EAP Agreement in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties, and that the same form an essential basis of the bargain between the parties. THESE LIMITATIONS APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 6—COMPENSATION

6.1 The fees for the initial term of the EAP are set forth in the MPA Price List. Esri shall invoice Licensee as quoted for the Enterprise Advantage Program upon receipt of Licensee's order and annually in advance. Fees for additional Learning and Services Credits or Technical Advisor Services will be invoiced upon receipt of Licensee's order. Licensee shall pay Esri within thirty (30) calendar days of receipt of invoice.

6.2 Pricing for annual program renewal and new or additional Esri service offerings will be in accordance with the MPA Price List at the time of purchase.

6.3 Licensee may elect to use Learning and Services Credits for actual travel expenses of Esri employees plus a standard burden or to be invoiced at the actual cost for travel expenses plus a standard burden. Meals will be charged on a per diem basis.

ARTICLE 7—TERM AND TERMINATION

The Term of each EAP order shall be one (1) year beginning on the date on which Licensee's purchase order is processed. EAP is provided on an order-by-order basis. If Licensee is currently covered by Standard Maintenance for all of its Software, Licensee may order, on an annual basis, EAP subject to the terms and conditions of this EAP Agreement. The Term of each EAP order shall begin on the date on which Licensee's purchase order is processed. Prior to the end of the Term, Esri may provide Licensee with a quotation for an additional one (1) year Renewal Period. If Licensee accepts the quote, Esri will submit an invoice to Licensee for the quoted annual Enterprise Advantage Program price and this EAP Agreement will automatically extend for the Renewal Period.

7.1 Either party may elect not to renew the EAP Agreement for its sole convenience at the end of any term upon thirty (30) days' written notice to the other party, in which event the EAP shall expire.

7.2 Either party may terminate this EAP Agreement for a material breach that is not cured within ten (10) days after written notice to the other party or for bankruptcy or insolvency of the other party.

7.3 Upon termination or expiration of this EAP Agreement

- a. Except when termination results from nonrenewal, all outstanding Learning and Services Credits shall be subject to cancellation, acceptance, or rejection at the sole discretion of Esri.
- b. In the event of termination for a material breach, the due dates of all invoices for amounts owed by Licensee to Esri shall be accelerated automatically so that such amounts become due and payable on the effective date of termination, regardless of the payment term provisions set forth in this EAP Agreement.
- c. Except where a provision specifically provides otherwise, any cause of action or claim of one (1) party accrued to or to accrue because of any breach or default of the other party and any accrued license rights shall survive to the degree necessary to permit their complete fulfillment or discharge.

ARTICLE 8—CONFIDENTIALITY

8.1 Confidential Information. It may be necessary for Esri or Licensee to disclose to the other party certain confidential information under this EAP Agreement. The access code or password for the PSS website, information disclosed at review sessions, and any Work Product are confidential information of Esri. Licensee data contained in the Esri PSS website database is confidential information of Licensee. Each party shall use the confidential information described above only for exchanging information needed to provide the PSS contemplated by this EAP Agreement. Within sixty (60) days of termination of this EAP Agreement, each party shall return or destroy and provide a certification of destruction of the confidential information of the other party.

8.2 Work Product

- a. Insofar as its rights may be legally restricted, Licensee agrees not to reverse engineer or decompile Work Product delivered only in Secure Formats. For Work Product delivered in source code or other human-readable formats, Licensee will have met its obligations under this EAP Agreement if its disclosure of Work Product is limited to such items in Secure Formats, *provided that* the means for reverse engineering, decompiling, or disassembling such Work Product is withheld from such disclosure, and the person or entity in receipt of such Work Product similarly agrees not to perform such acts or allow others to do so.
- b. Except as provided in the preceding paragraph, Licensee shall not disclose the Work Product to employees or third parties without the advance written consent of Esri. However, Licensee may, without such consent, make such disclosures to employees to the extent reasonably required to allow Licensee to use the Software or Data in a manner authorized under applicable licenses.
- c. The disclosures permitted under this section shall not relieve Licensee of its obligation to maintain the Work Product in confidence and comply with all applicable laws and regulations of the United States, including, without limitation, its export control laws. Furthermore, before disclosing all or any portion of the Work Product to employees or third parties as permitted in the preceding paragraph, Licensee shall inform such employees or third parties of the obligations in this EAP Agreement and obtain their agreement to be bound by them.

8.3 Excluded Confidential Information. Licensee shall not provide to Esri or disclose to the instructor any data or information that is personally identified information (PII), including, but not limited to, GLBA or HIPAA type data or information, or critical infrastructure information (CII) from the US Department of Homeland Security. Notwithstanding anything in this Addendum to the contrary, Esri retains the right to refuse acceptance of any nonpublic personal information (NPI) or customer information regardless of the form of disclosure. Esri will only accept receipt of information from Licensee that comports with the exceptions set forth in Subsections 4(B) and 4(C)(ii) of Section 509 of the Gramm-Leach-Bliley Act (P.L. 106-102) (15 U.S.C. Section 6809) and implementing regulations thereof.

8.4 Other Exchange of Confidential Information. Any other exchange of confidential information between the parties shall require execution of a nondisclosure agreement signed between the parties separate from this EAP Agreement.

ARTICLE 9—PREMIUM SUPPORT SERVICES TERMS AND CONDITIONS

9.1 Premium Support Services. Should the Licensee choose to use Learning and Services Credits for PSS, the terms of E601 6/27/2011 Premium Support Services Agreement incorporated into 2005MPA1199 shall also apply.

ARTICLE 10—CONSULTING SERVICES SUPPORT TERMS AND CONDITIONS

10.1 Consulting Services Support. Should Licensee choose to use Learning and Services Credits for consulting services support, the terms of this Article 10 shall also apply.

10.2 Patents and Inventions

- a. Each party shall retain title to any inventions, innovations, and improvements ("Inventions") made or conceived solely by its principals, employees, consultants, or independent contractors (hereinafter called "Inventors") during the term of this Addendum. The parties shall jointly own any Invention(s) made or conceived jointly by Inventors from both parties. With respect to such Inventions of Licensee relating to the Software, Licensee hereby grants and agrees to grant to Esri an irrevocable, royalty-free, nonexclusive, worldwide right and license, with right to sublicense, use, make, sell, offer to sell, or import such Inventions for any purpose, whether or not patented in the country of such past or intended use.
- b. Except as provided in the next paragraph, where an Invention is jointly owned, each party shall share equally the costs of acquiring protection for the Invention and furnish the other joint owner with assistance reasonably required for acquiring protection.
- c. A joint owner ("Assigning Owner") electing not to acquire or maintain protection on any Inventions in any country or countries shall assign such its rights in such Inventions to the other joint owner ("Beneficial Owner") as is necessary to enable the Beneficial Owner to protect such Inventions in such country or countries at its expense and for its exclusive benefit. In such event, the Assigning Owner shall make available to the Beneficial Owner the Assigning Owner's Inventors and shall otherwise cooperate with the Beneficial Owner in order to assist the Beneficial Owner in protecting such Inventions. The Beneficial Owner shall reimburse the Assigning Owner for all reasonable out-of-pocket expenses

incurred in rendering such assistance. If any such Inventions are so protected by the Beneficial Owner, then the Assigning Owner shall have a license with respect to the subject matter of such protected Inventions in such country or countries.

- d. Neither party may license, transfer, sell, or otherwise alienate or encumber its interest in jointly owned Inventions without the written consent of the other party, which is hereby given to Esri for Inventions relating to the Software and shall otherwise not be unreasonably withheld by either party.

10.3 Ownership. Except as specifically granted in this EAP Agreement, Esri or its licensors own and retain all right, title, and interest in the Work Product.

ARTICLE 11—TRAINING TERMS AND CONDITIONS

11.1 Training. Should Licensee choose to use Learning and Services Credits for training or coaching services, then the terms of Training Terms and Conditions E207CW 7/11/2011 incorporated into 2005MPA1199 shall also apply.

ARTICLE 12—GENERAL PROVISIONS

12.1 Intellectual Property Rights Attribution. Licensee shall retain any copyright, patent, or trademark notices on all items licensed under this EAP Agreement and shall take other necessary steps to protect Esri's or its licensor's intellectual property rights.

12.2 Nonsolicitation of Contractor Personnel. Licensee shall not solicit for hire any Esri employee who is associated with efforts called for under this EAP Agreement during the term and for a period of one (1) year thereafter. In the event the foregoing provision is breached, Licensee shall pay Esri liquidated damages for recruiting and training costs equal to twelve (12) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision.

12.3 Export Control Regulations. Licensee expressly acknowledges and agrees that Licensee shall not export, reexport, transfer, or release Software, Data, Web Services, or Documentation, in whole or in part, to (i) any US embargoed country (or to a national or resident of any US embargoed country); (ii) any person on the US Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the US Commerce Department's Denied Persons List, Entity List, or Unverified List; or (iv) any person or entity where such export or reexport violates any US export control laws or regulations including, but not limited to, the terms of any export license or license exemption and any amendments and supplemental additions to US export laws as they may occur from time to time.



PREMIUM SUPPORT SERVICES AGREEMENT

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5853

PSS Agreement No. 2012SLA1199

This Premium Support Services Agreement ("PSS Agreement") is entered into by and between **Environmental Systems Research Institute, Inc. ("Esri")**, a California corporation located at 380 New York Street, Redlands, California 92373-8100, and the licensee listed below ("Licensee"). Esri and Licensee shall be referred to herein collectively as the "Parties" and individually as a "Party."

Premium Support Services ("PSS") is a program that provides enhanced support for Esri Software, Data, and Documentation licensed under the applicable Esri Software license agreement(s).

PSS is available only to licensees who are current on Esri's Standard Maintenance. Licensee must order Standard Maintenance to qualify for PSS. Esri reserves the right to make service substitutions and modifications to PSS offerings at any time.

The terms and conditions of the Esri License Agreement(s) for the affected Esri Software, Data, and Documentation govern any updates, patches, hot fixes, or software provided under PSS.

ARTICLE 1—DEFINITIONS

Capitalized terms used in this PSS Agreement shall have the following meanings:

"Data" means any Esri or third-party digital dataset(s), including, but not limited to, geographic vector data coordinates, raster, reports, or associated tabular attributes licensed under an Esri License Agreement.

"Documentation" means all printed and digital materials, including, but not limited to, help files, user reference documentation, training documentation, or technical information and briefings.

"GIS" means geographic information systems.

"Incident" means a communication via telephone or e-mail by Licensee to Support Services regarding technical problems with Software, Data, or Documentation.

"Licensees Authorized Contact(s)" or "LAC" means up to two individuals selected by Licensee to report Incidents to Support Services and work directly with Esri's Premium Support Coordinator regarding all such incidents.

"Premium Support Incident" means an Incident that is opened as a PSS Incident.

"Senior Support Analyst" means an experienced support analyst within Support Services.

"Software" means all or any portion of Esri's proprietary software technology accessed or downloaded from an authorized Esri website or delivered on any media in any format, including backups, updates, service packs, patches, hot fixes, or permitted merged copies.

"Standard Maintenance" means the general support and maintenance Esri makes available for unmodified Software, including Incident tracking, attempts to correct errors, new releases, and enhancements.

"Support Services" means Esri Support Services that provide technical assistance to Esri licensees.

"User Advocacy Group" means a group within Support Services created to improve Esri's ability to understand and respond to technical issues impacting Esri licensees.

ARTICLE 2—PREMIUM SUPPORT SERVICES PROGRAM

2.1 Premium Support Description. If Licensee is currently covered by Standard Maintenance for all of its Software, Licensee may order, on an annual basis, PSS under the terms and conditions of this PSS Agreement. PSS shall provide (1) a designated Premium Support Coordinator ("PSC"); (2) unlimited telephone and e-mail support accessible to Licensee twenty-four hours per day, seven days per week, three hundred sixty-five days per year (24/7/365); (3) Priority Incident Management; and (4) other additional enhanced support and services.

2.2 Premium Support Coordinator. Esri shall assign a PSC to Licensee. The assigned PSC shall work directly with LAC and shall oversee all of Licensee's open Premium Support Incidents.

PSC shall

- a. Be familiar with Licensee's GIS software architecture and infrastructure to perform the scope of support pursuant to this PSS Agreement;
- b. Verify that all open Premium Support Incidents of Licensee are prioritized above Incidents opened pursuant to Standard Maintenance;
- c. Work closely with Senior Support Analysts toward the resolution of all open Premium Support Incidents; and
- d. Provide LAC with a daily status update on all open Premium Support Incidents or as agreed upon by PSC and Licensee.

Esri may replace PSC during the term of this PSS Agreement with a written notification to Licensee.

2.3 Telephone and E-mail Support. Esri shall provide support to Licensee for Software by telephone or e-mail and shall include the following:

- a. LAC may open Incidents by calling Support Services or logging the Incidents via the PSS website. An e-mail acknowledgment shall be sent to LAC for a new Incident logged via the PSS website. The assigned PSC shall use commercially reasonable efforts to call or send an e-mail response within one (1) hour of receipt of a new Incident to notify Licensee that the logged Premium Support Incident is in the initial stage of review;
- b. LAC shall have the ability to log Premium Support Incidents via the telephone. Incidents logged in this manner will receive personalized messaging and Priority Incident Management; and
- c. PSC shall be available to LAC from 5:00 a.m. to 5:00 p.m. Pacific Standard Time, Monday through Friday, except on Esri holidays. In the event that PSC is not available during such time, LAC's telephone calls and e-mails will be routed to a Senior Support Analyst who can assist LAC. PSC will be notified of the Incident. Telephone calls and e-mails during all other times (after hours, weekends, and Esri holidays) will be routed to Senior Support Analysts.

2.4 Priority Incident Management. Priority Incident Management shall include the following:

- a. Premium Support Incidents reported by LAC will be given priority handling after the initial Premium Support Incident is created and documented;
- b. Software defects affecting Licensee will be a priority for discussion of the User Advocacy Group; and
- c. For identified Software defects that are approved for an out-of-cycle hot fix or patch, PSC shall assist in presenting the hot fix or patch to LAC and verify that the delivered hot fix or patch addresses the reported issue.

2.5 Other Additional Enhanced Support and Services. Esri shall provide additional offerings to Licensee as a part of PSS, which include, but are not limited to, the following:

- a. *Premium Support Website Access.* LAC shall have access to the PSS website. LAC shall have the ability to log and track the status and completion of all identified Premium Support Incidents on this website. LAC may log and view their Incidents and access other PSS-related tools and information through this website.
- b. *System/Environment Profile.* Through the PSS website, Licensee shall have access to an Esri database to enter and maintain data regarding Licensee's equipment, applications, and skill sets associated with Esri technology.
- c. *PSS Software Alert Newsletter.* Esri shall provide to Licensee a news bulletin that discusses key current issues in Software being investigated by Esri.
- d. *Quarterly Teleconference Meeting.* PSC and Licensee shall conduct a quarterly teleconference meeting to discuss Licensee's Premium Support Incidents. Esri shall make available the assigned Account Manager, PSC, Premium Support Manager, and other Esri staff as deemed necessary by Esri.

Details of all PSS offerings can be found at www.esri.com/services/pss/components.html.

ARTICLE 3—RESTRICTIONS AND EXCLUSIONS

3.1 Defense or Military Application. Licensee must inform Esri if any of the services provided or to be provided by Esri pursuant to this PSS Agreement are directly related to a defense article as defined in 22 C.F.R. § 120.6 or for a military application, before such services are provided by Esri.

3.2 Excluded Software. PSS is not available for third-party software. Esri is not responsible for errors attributable to third-party software used in conjunction with or built upon Software.

3.3 English Language. All communications will be conducted in the English language except by agreement of both Parties.

3.4 Acknowledgment. Licensee acknowledges and agrees that the report of an error or defect of any Software is not a guarantee that it can or will be corrected. At Esri's sole discretion, Software is corrected on a priority basis and is subject to release schedules determined by Esri.

3.5 Current on Maintenance. Licensee shall remain current on Standard Maintenance during the term of this PSS Agreement. Standard Maintenance is described in the Esri US Software Maintenance Program at <http://www.esri.com/legal/pdfs/us-sw-maintenance.pdf>, which may be changed from time to time.

3.6 Hardware Support. Esri does not provide support for hardware, including but not limited to, graphics cards, monitors, plotters, graphics printers, digitizers, and modems, except to answer questions regarding how standard, supported devices interface with Software.

3.7 Exceptions to PSS. The following are not covered by this PSS Agreement:

- a. Any problem resulting from Licensee's misuse, improper use, unauthorized modification, or damage of the Software or Licensee's combining or merging the Software with any hardware or software not supplied or identified as compatible by Esri;
- b. Any problem resulting from third-party hardware or software;
- c. Errors in any version of the Software other than the officially supported version of Software; and
- d. Any on-site support or implementation services on-site or otherwise, including, but not limited to, those provided by Esri Professional Services or any third party.

ARTICLE 4—TERM AND TERMINATION

4.1 Term. The term of this PSS Agreement commences on the Effective Date. Licensee may automatically renew this PSS Agreement on an annual basis pursuant to Article 5 of this PSS Agreement provided the Licensee is current on Standard Maintenance.

4.2 Termination for Convenience. Either Party may elect not to renew this PSS Agreement for its sole convenience at the end of any term. Either Party shall provide the other written notice of termination no less than ninety (90) calendar days prior to the end of any term.

4.3 Termination. Either Party may terminate this PSS Agreement for a material breach that is not cured within ten (10) calendar days after written notice to the other Party, or for bankruptcy or insolvency of the other Party. In the event of termination for a material breach, the due dates of all invoices for amounts owed by Licensee to Esri shall be accelerated automatically so that such amounts become due and payable on the effective date of termination, regardless of the payment term provisions set forth in this PSS Agreement. Except where a provision specifically provides otherwise, any cause of action or claim of one Party accrued to or to accrue because of any breach or default of the other Party, and any accrued license rights shall survive to the degree necessary to permit their complete fulfillment or discharge.

ARTICLE 5—COMPENSATION

5.1 Pricing. Pricing for the annual renewals and any new Support Service offerings shall be in accordance with Esri's most current price schedule at the time of purchase or renewal.

5.2 Invoices. Licensee shall issue a purchase order upon execution of this PSS Agreement, and Esri shall issue an invoice to Licensee. No later than ninety (90) calendar days prior to the expiration of the then current term of this PSS Agreement, Esri shall provide Licensee with a quote for the annual renewal of this PSS Agreement. In the event Licensee issues a purchase order for the annual renewal, Esri shall issue an invoice to Licensee.

5.3 Purchase Order Requirements

- a. Any purchase orders issued by Licensee shall reference and be subject to the terms and conditions of this PSS Agreement. No additional or different term contained in a purchase order or ordering document shall be binding.
- b. The following information shall be included in each purchase order:
 - (1) Licensee's name and Esri customer number;
 - (2) Purchase order number;
 - (3) Applicable annual payment due; and
 - (4) On the face of the purchase order, print the following statement: "Subject to PSS Agreement No. 2012SLA1199."
 - (5) Information regarding LAC in the following manner:
 - a) Contact Name(s):
 - b) Telephone:

- c) Fax:
- d) E-mail:
- e) Address:

Licensee may replace LAC during the term of this PSS Agreement by providing written notification to the PSC.

ARTICLE 6—CONFIDENTIALITY

6.1 Confidential Information. Each Party acknowledges that it may receive confidential information from the other Party pursuant to this PSS Agreement. "Confidential Information" means any information designated in writing as Confidential Information by the disclosing Party. During the period this PSS Agreement is in effect, and at all times thereafter, each Party shall (a) safeguard the Confidential Information with the same degree of care that it uses to protect its own Confidential Information, but no less than reasonable care; (b) maintain the confidentiality of such information; (c) not use such information except as permitted under this PSS Agreement; and (d) not disseminate, disclose, sell, publish, or otherwise make available such information to any third party without the prior written consent of the disclosing Party. Each Party warrants to the other that the disclosure of Confidential Information is in compliance with all relevant agreements with third parties and applicable laws, including export control laws. Either Party may disclose Confidential Information to its attorneys or advisors under the obligation of confidentiality. Esri reserves the right to refuse to accept any software, application, component, source code, data, geodatabase, or other information or technology subject to contractual or legal restrictions that prohibit use by Esri to support Licensee.

The restrictions in the preceding paragraph do not apply to any information that (a) is already lawfully in the other Party's possession (unless received pursuant to a nondisclosure agreement); (b) is or becomes generally available to the public through no fault of a Party; (c) is disclosed to the other Party by a third party who may transfer or disclose such information without restriction; (d) is required to be disclosed by a Party as a matter of law; (e) is disclosed by a Party with the other Party's prior written approval; and (f) is independently developed by a Party without any use of Confidential Information of the other Party. In all cases, each Party shall use all reasonable efforts to give the other Party ten (10) calendar days prior written notice of any disclosure of Confidential Information under this PSS Agreement.

The access code or password for the PSS website is Confidential Information of Esri. Licensee's data contained in the Esri PSS website database is Confidential Information of Licensee.

6.2 Return of Materials. Within sixty (60) calendar days of termination of this PSS Agreement, each Party shall either return the Confidential Information to the disclosing Party or destroy and provide a certification of destruction of the Confidential Information of the disclosing Party. Any other exchange of confidential information between the Parties will require execution of a nondisclosure agreement signed between the Parties separate from this PSS Agreement.

ARTICLE 7—LIMITED WARRANTIES AND DISCLAIMERS

7.1 Limited Warranties and Disclaimers. All services provided pursuant to this PSS Agreement shall be performed in a professional and workmanlike manner. This PSS Agreement is subject to the terms and conditions of the agreement(s) between Esri and Licensee listed in this PSS Agreement and the Esri US Software Maintenance Program at <http://www.esri.com/legal/pdfs/us-sw-maintenance.pdf>, which may be changed from time to time.

7.2 General Disclaimer. ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ESRI DOES NOT WARRANT AND DISCLAIMS THAT PREMIUM SUPPORT OR ANY SERVICES PROVIDED HEREUNDER WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION WILL BE UNINTERRUPTED, ERROR-FREE, FAULT-TOLERANT, OR FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. PREMIUM SUPPORT IS NOT DESIGNED OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE. ANY SUCH USE SHALL BE AT LICENSEE'S OWN RISK AND COST.

7.3 Internet Disclaimer. BOTH PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS AND THAT (i) THE INTERNET IS NOT A SECURE

INFRASTRUCTURE, (ii) NEITHER PARTY HAS CONTROL OVER THE INTERNET, AND (iii) NEITHER PARTY IS LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THIS PSS AGREEMENT OR SERVICES PURSUANT TO THIS PSS AGREEMENT.

7.4 Error and Nonconformities Disclaimer. ESRI SHALL NOT BE RESPONSIBLE FOR ANY ERROR OR NONCONFORMITIES ATTRIBUTABLE TO A MODIFICATION TO ESRI SOFTWARE, DATA, AND DOCUMENTATION; LICENSEE'S OR ITS LICENSOR'S SOFTWARE, APPLICATION, COMPONENT, SOURCE CODE, DATA, GEODATABASE, OR OTHER INFORMATION OR TECHNOLOGY; OR THIRD-PARTY APPLICATIONS MADE BY OR AT THE DIRECTION OF LICENSEE.

ARTICLE 8—LIMITATION OF LIABILITY

8.1 Disclaimer of Certain Types of Liability. ESRI SHALL NOT BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS, LOST SALES, OR BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL; OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS PSS AGREEMENT OR SERVICES PURSUANT TO THIS PSS AGREEMENT, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, WHETHER OR NOT ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

8.2 General Limitation of Liability. ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS PAID BY LICENSEE FOR THIS PSS AGREEMENT.

8.3 Applicability of Disclaimers and Limitations. The Parties agree that Esri has set its prices and entered into this PSS Agreement in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the Parties, and that the same form an essential basis of the bargain between the Parties. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 9—GENERAL PROVISIONS

9.1 Force Majeure. If the performance of this PSS Agreement, or any obligation except the making of payments, is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, terrorist act, cyber attack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency; or any act or condition whatsoever beyond the reasonable control of the affected Party, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, restriction, or interference.

9.2 Non-Solicitation of Esri Personnel. Licensee shall not solicit for hire any member of Esri's technical staff who is associated with this PSS Agreement while the PSS Agreement is in effect and for a period of one (1) year thereafter. If this provision is breached, liquidated damages equal to twelve (12) months of the Esri's technical staff's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by Licensee to Esri.

9.3 UCC Inapplicability. Any of the services provided pursuant to this PSS Agreement shall not be governed by the Uniform Commercial Code ("UCC") and shall not be deemed "goods" as defined by the UCC.

9.4 Severability. If any provision of this PSS Agreement is determined to be invalid, illegal, or unenforceable, the Parties agree that the remaining provisions of this PSS Agreement shall remain in full force if both the economic and legal substance of the transactions contemplated by this PSS Agreement are not affected in any manner that is materially adverse to either Party by severing the provision determined to be invalid, illegal, or unenforceable.

9.5 No Implied Waiver. The failure of either Party to enforce any provision of this PSS Agreement shall not be deemed a waiver of the provisions or of the right of such Party thereafter to enforce that or any other provision.

9.6 Assignment and Delegations. Esri may, in whole or in part, assign any of its rights or delegate any performance pursuant to this PSS Agreement, provided that Esri shall remain responsible for the performance of delegates.

9.7 Export Control. Esri's technology is subject to US export control laws and regulations. Software, Data, Documentation, and any underlying information or technology may not be exported, reexported, or provided in whole or in part to (i) any country to which the United States has embargoed goods; (ii) any person on the US Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the US Commerce Department's Table of Denial Orders; or (iv) any person or entity where such export, reexport, or provision violates any US export control law or regulation.

9.8 Governing Law and Arbitration. This PSS Agreement shall be governed by and construed in accordance with the laws of the State of Kansas without reference to conflict of laws principles. Any controversy or claim arising out of or relating to this PSS Agreement, or the breach thereof, which cannot be settled through negotiation, shall be finally settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. If Licensee is a US Government agency, this PSS Agreement is subject to the Contract Disputes Act of 1978, as amended (41 USC §§601-613), in lieu of the arbitration provisions of this clause.

9.9 Headers. Headers are for convenience only and are not to be used in the interpretation of this PSS Agreement.

9.10 Taxes. Services provided are quoted exclusive of all state, local, value-added, or other taxes, and customs, duties, or other charges (other than income taxes payable by Esri). In the event such taxes and/or charges become applicable to Esri's services provided pursuant to this PSS Agreement, Esri Software, Data, or Documentation, Licensee shall pay any such applicable taxes and/or charges upon receipt of written notice that such taxes and/or charges are due.

9.11 Entire Agreement. This PSS Agreement constitutes the sole and entire agreement of the Parties as to the subject matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the Parties relating to such subject matter. Additional or different terms included with an order or other document of Licensee shall not be binding upon Esri. Any modification(s) or amendment(s) to this PSS Agreement must be in writing and signed by an authorized representative of each Party.



IMPLEMENTATION SERVICES ADDENDUM FOR SERVICES PACKAGES

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

1. DEFINITIONS

"Commercial Off-the-Shelf Software" or "COTS Software" means all or any portion of Esri's proprietary software technology accessed or downloaded from an authorized Esri website or delivered on any media, in any format, including backups, updates, service packs, patches, hot fixes, or permitted merged copies, available under license to the general public.

"Map Data" means any digital dataset(s) including geographic, vector data, coordinates, raster, or associated tabular attributes supplied by either party for use in the performance of this Addendum.

"Services" means consulting support being performed by Esri on a time and materials basis in exchange for compensation from Customer.

"Services Output" means any work product produced by Esri as a result of Services provided under this Addendum. Services Output can include, but is not limited to, reports, training materials, and custom software code.

"Services Package(s)" means a predefined unit of Services provided at a firm fixed price, as stated in Esri's proposal.

2. OWNERSHIP AND GRANT OF LICENSE

Except as specifically granted in this Addendum, Esri owns and retains all rights, title, and interest in Services Output. Subject to the terms and conditions in this Addendum, Esri hereby grants to Customer a nonexclusive, royalty-free, worldwide license to use, modify, and/or reproduce Services Output in connection with Customer's authorized use of Esri's COTS Software.

3. PATENTS AND INVENTIONS

Esri and Customer shall retain title to any inventions, innovations, and improvements ("Inventions") made or conceived solely by its principals, employees, consultants, or independent contractors ("Inventors") during the term of this Addendum. Esri and Customer shall jointly own any Inventions made or conceived jointly by Inventors from both parties. Where Inventions are jointly owned, each joint owner shall share equally the costs of acquiring protection for the Inventions and furnish the other joint owner with assistance reasonably required for acquiring protection. Neither Esri nor Customer may license, transfer, or sell its interest in jointly owned Inventions without the written consent of the other party, which shall not be unreasonably withheld.

4. COMPENSATION

Services will be performed and invoiced on a firm fixed price basis, and the deliverable will be consultation time. Esri will invoice Customer for all Services Packages ordered upon receipt of a valid Customer Purchase Order/ordering document. The Purchase Order/ordering document will confirm the quantity and price of the Services Packages ordered, as described in Esri's proposal or quotation, and will reference Customer acceptance of this terms and conditions document. Esri standard payment terms are net 30 days from receipt of an Esri invoice. Payment shall be made to the Esri address identified on the Esri invoice. For Services provided beyond the period of performance proposed or provided in a new calendar year, Esri reserves the right to increase the Services Package price in accordance with Esri's most current price schedule. Esri's obligation for completion of the Services proposed is limited to the hours outlined in the Services Package descriptions within Esri's statement of work. If additional time is required to complete Customer's goals or activities set forth in the applicable statement of work, Esri and Customer will amend the Purchase Order/ordering document, as mutually agreed, by increasing the quantity of Service Packages ordered and issuing a new or amended Purchase Order/ordering document. Esri may, at its sole discretion, stop work to avoid exceeding the total hours allotted in a specific Services Package. Unused labor hours or travel remaining after the performance of a Services Package will expire and not be available for performance at a later date. If funded Services Packages have not been performed within twelve (12) months of the Esri invoice date, the

Services Package will expire, and no refund will be provided. Any amendment to the Purchase Order/ordering document to add Services Packages shall not affect the rights or obligations of the parties under this Addendum.

5. LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES

Esri warrants for a period of ninety (90) days from the date of performance that Services will conform substantially to the professional and technical standards of the software industry. If Services do not substantially conform to these standards, Customer may require Esri to reperform Services at no additional cost to Customer. Services Output is provided as is without warranty of any kind.

Disclaimer of Warranties

WITH THE EXCEPTION OF THE LIMITED WARRANTY SET FORTH IN THIS ARTICLE, ESRI DISCLAIMS AND THIS ADDENDUM EXPRESSLY EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN ADDITION TO AND WITHOUT LIMITING THE PRECEDING PARAGRAPH, ESRI DOES NOT WARRANT IN ANY WAY MAP DATA. MAP DATA MAY NOT BE FREE OF NONCONFORMITIES, DEFECTS, ERRORS, OR OMISSIONS; BE AVAILABLE WITHOUT INTERRUPTION; BE CORRECTED IF ERRORS ARE DISCOVERED; OR MEET CUSTOMER'S NEEDS OR EXPECTATIONS. CUSTOMER SHOULD NOT RELY ON ANY MAP DATA UNLESS CUSTOMER HAS VERIFIED MAP DATA AGAINST ACTUAL DATA FROM DOCUMENTS OF RECORD, FIELD MEASUREMENT, OR OBSERVATION.

6. LIMITATION OF LIABILITY AND EXCLUSIVE REMEDY

IN NO EVENT SHALL ESRI BE LIABLE TO CUSTOMER FOR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS; LOST SALES; BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF GOODWILL; OR ANY INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ARISING OUT OF, OR RELATED TO, THIS ADDENDUM, HOWEVER CAUSED OR UNDER ANY THEORY OF LIABILITY, EVEN IF ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ESRI'S TOTAL CUMULATIVE LIABILITY UNDER THIS ADDENDUM, FROM ALL CAUSES OF ACTION OF ANY KIND, SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SERVICES UNDER THIS ADDENDUM FROM WHICH THE LIABILITY DIRECTLY AROSE.

7. CONFIDENTIALITY

Services Output is Esri confidential information, and Customer shall preserve and protect the confidentiality of Services Output. Customer agrees not to reverse engineer or decompile custom software delivered in object code, executable code, or similar formats (collectively, "Secure Formats"). For custom software delivered in source code or other human-readable formats, Customer shall have met its obligations under this Addendum if its disclosure of custom software is limited to custom software in Secure Formats, provided that the means for reverse engineering, decompiling, or disassembling the custom software is withheld from such disclosure, and the person or entity in receipt of the custom software similarly agrees not to perform the prohibited acts described above or allow others to do so.

Except as provided in the preceding paragraph, Customer shall not disclose Services Output to third parties without the advance written consent of Esri. Customer may make disclosures to Customer's employees to the extent reasonably required to allow Customer to use Services Output in a manner authorized under the applicable software licenses. Before disclosing all or any portion of Services Output to employees or third parties as permitted in the preceding sentence, Customer shall inform its employees or third parties of the obligations in this Addendum and obtain their agreement to be bound by them.

8. EXPORT CONTROLS

The disclosures permitted under Article 7, Confidentiality, shall not relieve Customer of its obligation to maintain Services Output in confidence and comply with all applicable laws and regulations of the United States including, without limitation, its export control laws. Customer expressly acknowledges and agrees not to export, reexport, transfer, or release Services Output, in whole or in part, to (i) any US embargoed country (or a national or resident of any US embargoed country); (ii) any person on the US Treasury Department's list of Specially Designated Nationals; (iii) any person or entity on the US Commerce Department's Table of Denial Orders; or (iv) any person or entity where such export, reexport, or provision violates any US export control laws or regulations including, but not limited to, the terms of any export license or licensing provision and any amendments and supplemental additions to US export laws.

9. GENERAL PROVISIONS

9.1 Nonsolicitation. Neither party will directly solicit for hire any employee of the other party who is associated with Services called for under this Addendum during, and for a period of one (1) year after, project completion. In the event this provision is breached, liquidated damages equal to twelve (12) months of the employee's compensation, plus any legal expenses associated with the enforcement of this provision, shall be paid by the breaching party to the aggrieved party. The foregoing shall in no way restrict the parties from publicly advertising positions for hire in newspapers, professional magazines, or Internet postings.

9.2 Taxes. Services are quoted exclusive of all state, local, value-added, or other taxes; customs; duties; or other charges (other than income taxes payable by Esri). In the event such taxes and/or charges become applicable to Esri's Services or Services Output, Customer shall pay the applicable tax upon receipt of written notice that it is due.

9.3 UCC Inapplicability. Services provided under this Addendum will not be governed by the Uniform Commercial Code (UCC) and will not be deemed "goods" within the definition of UCC.

9.4 Order of Precedence. These terms and conditions will take precedence over any Customer terms and conditions included in Customer ordering or authorizing documents, such as purchase orders. Any additional terms or conditions in Customer ordering or authorizing documents will be void and may be incorporated into this Addendum only by written amendment signed by both parties.

9.5 Equitable Relief. Customer agrees that any breach of this Addendum by Customer may cause Esri irreparable damage. In the event of a breach, in addition to any and all remedies at law, Esri shall have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction to prevent violation of these terms without the requirement of posting a bond or undertaking or proving injury as a condition of relief.

9.6 Governing Law. This Addendum shall be governed by and construed in accordance with the laws of the State of Kansas without reference to its conflict of laws principles.

9.7 Entire Agreement. This Addendum is the sole and entire agreement of the parties for Services and supersedes any previous agreements, understandings, and arrangements (including any attached purchase order terms and conditions) between the parties relating to the subject matter.

